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–randi chavis

Phone Report Ends SBA Involvement

by Paul Suozzi

The Student Bar Association (SBA) Subcommittee on telephone abuses gave its final report to the board at the recent SBA meeting, November 2. A written report had been distributed to board members at a previous meeting, at which time the board voted not to release the report until all board members had reviewed it. The present discussion was aimed at deciding if any further action should be taken by the subcommittee, and what should be done with the report. The discussion was led by third year director Jim Maloy, Chairperson of the subcommittee.

The written report outlined the previous actions of the subcommittee, including its preliminary report to the board on April 21, 1978. At that time, it was determined there were over $385 in unclaimed personal calls made from student organizations' phones. The task of the subcommittee was to look into the unclaimed calls and attempt to identify the callers. Subcommittee member Lewis Steele conducted this investigation during the summer with the help of New York Telephone. A list was compiled of the calls and their destinations.

The subcommittee met with Dean Thomas Headrick on October 19, 1978 and a course of action was agreed upon, as follows: (1) Perform a cross-check of the names appearing in the "destination" column on the attached lists with the class lists for the graduating classes from 1977 through 1980; (2) notify by letter those individuals whose names appear from such cross-check, and request: a) whether or not the individual claims responsibility for the call or calls in question, and b) if the individual claims responsibility, an explanation as to why he or she did not come forward to claim the call(s) prior to April 17, 1978; (3) turn the entire matter over to the Faculty-Student Relations Board (FSRB) for whatever action it deems appropriate; and (4) release the list of calls to *Opinion* with the caveat that it would be improper in the view of the SBA Board to publish any information which would unfairly create a presumption that an individual whose name might appear as a calling destination is responsible for such call.

The consensus at the meeting was that the SBA itself has no power to sanction anyone who may have misused the phone and not claimed or paid for a call. For that reason, the subcommittee decided it was best to refer the entire matter to the FSRB which could decide and impose an appropriate sanction.

First year director Jay Marlin opened the question as to whether the board should recommend sanctions to the FSRB. Maloy felt it would be inappropriate for the SBA to attempt to dictate procedure to another governing board. Steele expressed the desire that something accompany the report which would indicate to the FSRB the SBA felt some sanction should be imposed. Second year director Dwight Wells agreed with Steele that some action should be taken.

Steele then suggested a letter should be sent with the report which would express the SBA's feeling that the concerns where substantive and should receive commensurate consideration. He also offered to draft such a letter.

Wells motioned to accept the report of the subcommittee. A friendly amendment was offered to delete one call which it appeared had already been claimed. The amendment was accepted and the motion passed unanimously.

Dean Headrick Announces Law School Will Have Ethics

by Mike Buskus

Dean Thomas E. Headrick has announced there will be a substantial change in the manner of teaching ethics at the law school. In the past, seniors enrolled in a one-credit ethics course taught in the Moot Court Room, featuring guest lecturers. The new plan contemplates a two-phased system in which the Class of 1979 and the Class of 1980 will be offered a one-credit ethics course similar to past offerings, while all future classes will have ethics taught as part of the first year research and writing program.

Last summer, in a letter to all students enclosed with the registration materials, the Dean announced the old "lecture" course in ethics was being scrapped. Headrick recently labeled the old lecture course a "lousy course." The Dean explained his dissatisfaction with the old manner of teaching it: "We had a number of outside visitors who came and did good jobs; but, the problem is that to teach legal ethics, you need to teach it in small groups. You can't teach it as a lecture course."

As an alternative, the law school offered Professor Marshall Breger's **Legal Profession** course this semester. Headrick recently praised this course offering, calling it "a better course than anything we had wanted to devise for teaching ethics as an ethics course because it goes into the wider aspects of the profession and sets it into some kind of context . . ."

There has been considerable response to the Dean's summer letter and the alternative of Breger's **Legal Profession** course. Nearly 50 students have enrolled in Breger's course. Approximately 125 students have petitioned the Dean to reinstate the ethics course for the spring semester.

Headrick explained one reason behind the request for reinstating the ethics course may be a desire to balance the number of credit hours to meet Court of Appeals requirements. In addition, the Dean observed that in the aftermath of Watergate, there has been a generally heightened concern over ethical issues pertaining to the legal profession.

The Dean detailed the program for the spring semester: it will be partially student organized, but will be supervised by Headrick. In addition, "there will be some faculty input in the selection of materials and the establishment of problems." Furthermore, the law school will "try to involve a significant number of people from downtown in discussion groups." The class will meet for about two hours a week for seven weeks.

According to Headrick, the written exam in the course "will be similar to the Multi-State Ethics Exam which is being developed and which the National Conference of Bar Examiners expects a number of states to adopt between now and 1980." This type of exam would eventually be given several times a year in addition to the normal bar exam. Passing this exam would be required for admission to the bar. The Dean expressed the hope that Buffalo could be a pilot center to test out this type of exam. The course and the exam would probably be graded on a Satisfactory/Unsatisfactory basis.

Headrick mentioned that if this course is successful, it will be repeated for the class of 1980.

The long-range goal for teaching ethics at Buffalo envisions greater integration of ethics with the traditional curriculum earlier in law school. This spring will be the first step in that direction. The program will involve a substantial component of the first year research and writing program, which is taught by student assistants under faculty supervision. This year, the program will include substantial participation by a faculty member who will teach ethics. "Bob Berger is going to specifically handle that part of the research and writing course. He's going to work with the student assistants in the design of problems and discussion of them. It's going to cover six or seven weeks of [one or more hours a week] in the research and writing course."

Commenting briefly on the manner of grading the ethics component of the research and writing course, the Dean declared students will be graded "on their sensitivity to the ethical issues involved and their understanding of the Code [of Professional Responsibility] and its meaning as it applies to certain kinds of ethical problems." Headrick stressed students will have to be "familiar with" the Code and "understand it in some way and apply it to hypothetical situations. It's not testing their 'ethics,' it's testing their understanding of the ethical proscriptions that apply to lawyers."

–mike shapiro

Dean Thomas E. Headrick

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Editorial

Students Vote For "Q"

By voting overwhelmingly in favor of maintaining the present grading system, the students have sent a strong and clear message to the APPC and the faculty.

The message is simple. The present system is sufficient for our needs. There is no need to make a change which in the end will not be any more fair, but will, in all probability, tend to increase competition and make law school even less of a learning experience.

The APPC in analyzing the pros and cons of changing the present system should give the student's view great weight. Students must live with the system. Grades can determine job opportunities, status, even the future of the student. We are sure if a change was to be made in the tenure system, the faculty would want their views on the change to be given great weight by any committee considering the issue. We ask the same consideration in this matter.

Opinion is pleased students voted in favor of keeping the present system. Frankly, we find the present system appealing for a number of reasons.

The system awards high achievers without bringing cut-throat competition to the law school. Students are able to participate in a learning experience without the fear that by missing a point or overlooking a case they will be doomed to a poor grade.

Finely drawn distinctions between students are unnecessary and even counter productive at the graduate level. Once a person has finished college and has been accpeted at a graduate school, faculty should be less concerned with drawing distinctions between students and more concerned with providing the students with the opportunity to participate in a learning experience which will sharpen the mind and not dull the spirit.

Students engaged in a meaningful learning experience are more likely to do the type of work which will culminate in the honors grade because they enjoy what they are doing and are not under pressure to get a grade.

The present system provides adequate feedback and reinforcement to the student. A "D" grade tells the student his work is marginally adequate. The "F" grade serves to weed out the few unqualified students the admission's process missed. As long as the faculty has the courage to give the "F" grade, when deserved, the integrity of the present grading system is maintained.

This law school prides itself on being better than your average "garden variety law school." It prides itself on being innovative and daring. Our present grading system is distinctive. Instead of worrying about the system hurting students at placement time, the school should use the grading system as a selling point for potential students and employers. Instead of looking back at what other schools have done we should look forward and let other schools follow our lead.

LAST CLEAR CHANCE

December 7, 1978 will be the next and last issue of *Opinion* for this semester. All letters, articles, announcements and any other contributions are due by November 28th.

Letters To The Editor

Use of Photo on Transcript Questioned

To the Editor:

I recently obtained a copy of my transcript from the Office of Admissions and Records. The second page includes a copy of one of the two photographs required by the school when I first enrolled here. I asked at that time what the purpose was in requiring the pictures and was told they were "for our records."

My assumption has always been that photographs of students are strictly for internal use. I never expected to find the pictures would appear on transcripts.

I asked at A & R whether the inclusion of the pictures on transcripts sent outside of the school is standard procedure and was told it depends on who makes the copies. Sometimes they are blocked out, sometimes they are not. I was also told a student may note on a transcript request that the picture is not to be included. This option is *not* indicated anywhere on the transcript request form.

The purspoe of the school's requiring the photographs should be disclosed *fully* before they are submitted by students. The transcript request form should include an option as to the pictures appearing on a transcript going outside of the school. This is definitely *not* a matter to be left to the whim of A & R personnel.

The most serious objection to pictures on transcripts is the inherent danger of its facilitating racial discrimination. Many employers see transcripts before they decide whether an interview will be granted. The presence of a picture on a transcript is as potentially dangerous as the requirement of photographs by schools as a part of the admissions process, a practice this school does not use for this very reason.

Even if other students do not object to the practice on principle, I am certain they would object to not knowing how the pictures may be used. I, as most students, did not go out of my way to submit the most flattering picture of myself when I first came here. A Xeroxed copy of a poor picture is not a pleasure to behold.

Bill Lundquist

Affirmative Action Coalition Seeks Clear Goal Statement

To the Editor:

In response to the apparent inadequacy of the Law School's Affirmative Action Program, an ad hoc committee has been established. Approximately a dozen students have addressed the range of problems associated with the unreasonably small number of minority students now enrolled in the Law School.

Thus far, the Affirmative Action Coalition's activities have been limited to several idea-generating meetings and informational discussions with both Asst. Dean Allan Canfield and Professor William Greiner. In addition, the committee has established liason with the International Coalition and minority organizations of the entire University community. In the near future, the Coalition is participating in a workshop on Affirmative Action in Professional Schools during Third World Week, November 14th-19th.

Focus of the Coalition is now centered on: 1) lobbying for an increased commitment by the administration in such areas as admissions policy, recruitment, support programs, and securing a full-time minority program coordinator; 2) exploring funding sources for minority programs existing at other law schools; and 3) researching the past and current practices of admissions, recruitment, and follow-up.

A primary objective of the Coalition is that the administration and faculty publish a clear, updated, and comprehensive statement of the Law School's Affirmative Action goals and the proposed means of meeting these goals. It is hoped that student input will be utilized in that articulation.

In order to overcome the limitations imposed by the small number of students now offering their input to this committee, more volunteers are needed. There are numerous tasks to be identified and completed. The Coalition's next meeting is Tuesday, November 14th, 6 p.m. in the First Floor Lounge. For additional information contact Hillary Exter or Shelley Mayer.

Another Letter Attacks Social Services Humor

To the Editor:

I was greatly angered to see that the **Opinion** (September 28, page 7) published quotations from letters sent to the Social Services Department by people who were applying for Public Assistance.

The quotations, as you may recall, were sentences that contained bad grammar, faulty construction, wrong word usage or were simply nonsensical.

The purpose of your publishing these quotations seemed to be for nothing more than the amusement of your readers. One would think it possible to find better entertainment than making fun of people who most probably are uneducated, unaccustomed to writing letters, and who suffer great social hardships.

Moreover, anyone who has had the delightful experience of dealing with the Social Services Department knows how confusing, ambiguous, and inane their questions and procedures can be.

Furthermore, many of the sentences I have seen some UB law students write are worthy of comment. These sentences were no more understandable, at times less so, than those of their fellow citizens applying for Public Assistance. This, of course, is a cause for concern since law students are supposedly educated and trained to think and write logically.

Finally, I wonder how many lawyers will be laughing after graduation when they end up with their friends at the Social Services Department because they can't find a job.

Jonathan A. Robins

SBA Solicits Proposals For Distinguised Visitors

To the Editor:

Each year, The Student Bar Association allocates a certain amount of its budget to the Distinguished Visitor's Forum. The purpose of the Forum is to bring to the Law School persons who can present their ideas related to the law or to subjects closely associated with the law. Examples of previous programs include Ramsey Clark speaking on the proposed revision of the Federal Criminal Code, and speakers on law in Puerto Rico and law and the elderly.

The SBA appoints a committee to process applications for use of the DVF fund. The members of this committee for the 1978-79 school year are Ted Donovan, Dwight Wells, Joe Keleman and John Stainthorp. The Committee has established a regular meeting time, beginning on November 1st. The Committee will meet every other Wednesday at noon in the SBA office to consider program proposals.

We invite individuals and organizations to submit proposals to us before these Wednesday meetings.

The DVF Committee

Quote of the Bi-Week

An analogy is the last refuge of an empty mind.
—John Gardner

Guest Commentary

Medical Malpractice Panel: Creation and Effect

by The Hon. Seymour Boyers

The medical malpractice furor of a few years ago acted as a compelling force for legislative change. As a result, the New York State Legislature enacted Chapter 109 of the Laws of 1975 and Chapter 955 of the Laws of 1976, which are applicable to malpractice actions against physicians and podiatrists, and Chapter 95 of the Laws of 1978, extending jurisdiction to such cases against hospitals.

One of the most controversial statutory provisions enacted was the creation of the Medical Malpractice Panel. The statute establishing this panel is Section 148-a of the Judiciary Law. In essence, subdivision 2 of said section provides for a hearing before a panel consisting of a Supreme Court Justice, a physician and an attorney. (See §684.4 [b] of the Rules of the Appellate Division, Second Department, to cases involving multiple physician defendant.) Prior to the hearing, any party may object to the physician or attorney who has been designated. Such objection shall be decided by the justice presiding as a member of the panel. (Judiciary Law, § 148-a, sub. 2, par. d.) The hearing itself is informal and without a stenographic record. Except as otherwise provided, no statement or expression of opinion made in the course of the hearing is admissible either as an admission or otherwise in any trail of the action. (Judiciary Law, § 148-a, sub. 4.)

The panel has the authority to render a recommendation of liability or no liability which, when unanimous, may be offered into evidence during the trial of the lawsuit. The portion of section 148-a which refers to the unanimous recommendation of the panel is subdivision 8, which provides:

If the three members of the panel concur as to the question of liability a formal written recommendation concerning such question of liability shall be signed by the panel members and forwarded to all parties. In such event, the recommendation shall be admissible in evidence at any subsequent trial upon the request of any party to the action. The recommendation shall not be binding upon the jury or, in a case tried without a jury, upon the trial court, but shall be accorded such weight as the jury or the trial court chooses to ascribe to it.

If the recommendation is read to the jury or by the trial court, the doctor member or the attorney member of the panel, or both of them, may be called as a witness by any party with reference to the recommendation of the panel only. The party calling such witness or witnesses shall pay their reasonable fees and expenses.

The constitutionality of the statute has not as yet been ruled upon by the Court of Appeals, but three of the four Appellate Divisions have held the statute to be constitutional. (*Comiskey* v. *Arlen*, 55 A D 2d 304 [2d Dept.], 390 N Y S 2d 122; affd. on other grds., 43 N Y 2d 696; *Kimball* v. *Scors*, 59 A D 2d 984 [3d Dept.]; *Dundon* v. *Presbyterian Hospital*, 58 A D 2d 746 [1st Dept.], affd. 44 N Y 2d 674.)

In *Comiskey* v. *Arlen*, the Appellate Division, Second Department unanimously held the statute constitutional on the theory that the introduction of a unanimous panel recommendation is, in effect, an expert opinion, which is to be evaluated by the jury in the same manner as it would evaluate any other expert opinion. The court held section 148-a, subdivision 8 of the Judiciary Law constitutes another legislative exception to the hearsay rule. Moreover, the court held the Legislature acted within its power by merely amending the rules of evidence and therefore no constitutional infirmity was involved, since the jury still retained the final say in determining the facts and what weight ought to be given to the evidence.

The Appellate Division, Second Department, has recently decided two important cases dealing with the operation of the statute. The cases are *Kletnieks* v. *Brookhaven Memorial Hospital*, 53 A D 2d 169 and *Curtis* v. *Brookdale Hospital*, 62 A D 2d 749.

In *Kletnieks*, the defendant moved to vacate the panel's unanimous recommendation of liability, on the ground that the panel's finding of departure, without a concomitant finding of "proximate cause", was insufficient to support a recommendation of liability as that term is used within the meaning of section 148-a (8) of the Judiciary Law. The Appellate Division determined that a recommendation of liability within the meaning of the statute requires both a finding of (1) a deviation and departure from the accepted medical practice in the community and (2) that said deviation and departure was the proximate cause of the injury or injuries alleged to have been sustained. In this regard, the Appellate Division in the First Department concurs. (See, *Marrico* v. *Misericordia Hospital*, 59 A D 2d 680.)

In the *Curtis* case, the court addressed the ambiguity of the statute concerning the scope of examination and testimony of the medical and attorney panelists who may be called as witnesses. The statute, section 148-a (8) provides in part:

If the recommendation is read to the jury or to the trial court, the doctor member or the attorney member of the panel, or both of them, *may be called as a witness by any party with reference to the recommendation of the panel only.* (Emphasis supplied.)

Prior to *Curtis*, there was a dispute at the trial level as to the meaning of *"With reference to the recommendation of the panel only"*. As a result, some justices permitted only a restricted examination of the panelists, while others permitted a more liberal examination.

Mr. Justice Hopkins, writing for the majority (3-2) in *Curtis*, held it was error for the trial court to limit the questioning of the physician panelist to a recital of his qualifications and a bare statement of the panel's recommendation, and not to allow questioning relating to the basis for the recommendation. The majority further held that the "extent and duration of the examination of the witnesses will, of course, be subject to the discretion of the court, which should be properly exercised." It would therefore seem that the statute permits a direct and cross examination of the panelist, like any other expert witness called to testify at the trial, subject to the confidentiality limitations of subdivision 4 of the statute.

Undoubtedly, there will be continued litigation concerning the operation of the medical malpractice panel. It appears, however, the courts will uphold the intent of the Legislature to implement the purpose of the panel:

"The Legislature enacted section 148-a of the Judiciary Law in response to a growing dissatisfaction with the traditional methods of determining medical malpractice claims by jury trials. That dissatisfaction stemmed from the mounting number of such claims, the complexity of the issues and the potential size of the verdicts, all of which contributed to the reluctance of insurance carriers to risk coverage for physicians. The statute was intended to introduce into the process of litigation a state of pretrial consideration in which representatives of the court, the legal profession and the medical profession would participate in evaluating the claim. 'Apparently, the theory underlying the use of the panels is that the parties will be better equipped to negotiate a settlement, and under greater pressure to settle, if they are given a preliminary view of the merits of the case, the end result thus should be the same as that yielded by a panel with more extensive powers'" (Comment, An Analysis of State Legislative Responses to the Medical Malpractice Crisis, 1975 Duke LJ 1417, 1456).

The disposition of a malpractice claim is made easier if the recommendations of the panel are admissible at the trial and if the physician member is available as a witness at the trial (Medical-Legal Screening Panels as an Alternative Approach to Medical Malpractice Claims, Documentary Supplement, 13 Wm & Mary L Rev 695, 722). Undoubtedly, these advantages were considered by the Legislature in drafting section 148-a, which incorporates both of these features. (62 A D 2d at 754, 755.)

Judge Boyers is the Presiding Justice of the Medical Malpractice part, Supreme Court, Queens County.

Results in on Grade Referendum; Students Vote To Keep the "Q"

47% most preferred a 4 tier H-Q system
42% most disliked a 6 tier A-B system

President's Corner

by Tony leavy

With 60% of the students voting in the grade referendum (the highest turnout ever in student elections) the results were: no change in our present system; a four tier grading system; and, more specifically, a four tier H-Q system. In addition, students overwhelmingly voted against any 6 tier system, with a 6 tier A-B system receiving the most negative votes.

Employment opportunities were not thought to be significantly effected by the present system; students felt they would not work harder under a 5 or 6 tier system; and do not feel the Q creates a negative self-image.

(All of the following numbers and percentages are approximations, and are rounded off. If the percentage does not add to 100% the difference includes no opinion and other answers.)

The total voter turnout was 453 out of 765 total students. This breaks down by class as follows:

184 lst yr. votes	75% of class
158 2nd yr. votes	62% of class
104 3rd yr. votes	44% of class

The preferences for the 4, 5 or 6 tier systems were as follows:

4 grade system	60%
5 grade system	20%
6 grade system	10%

Class breakdown is:

	1st yr.	2nd yr.	3rd yr.
4 grade system	60%	64%	53%
5 grade system	17%	20%	26%
6 grade system	13%	4%	13%

These following figures are consistent with the answer to the question of whether *any* change was preferred:

no change preferred	54%
some change preferred	39%

Of the 13 possible grade choices there were clear majorities for most preferred and most disliked:

In addition to continuing our analysis of these results we will be analyzing the "strongly support thru strongly oppose" preferences. Notwithstanding this continuing analysis the student mandate to keep H-Q-D-F or to change to H-Q-P-F is clear. The answers to the questions concerning the perceived effect of our present grading system on employment opportunities, work motivation and self image are as interesting, consistent and clear as the preference for the H-Q.

On the question concerning the effect on employment, 43 per cent said H-q had no significant effect, while 23 per cent said it had some effect. Of the 23 per cent almost all said it had a negative effect. The class breakdown is:

	significant effect	no significant effect
1st yr	18%	44%
2nd yr	22%	56%
3rd yr	34%	56%

On the question concerning work motivation 63 per cent said they would not work harder under a 5 or 6 tier system, while 23 per cent said they thought they would. The class breakdown is:

	Work harder	not work harder
1st yr	20%	64%
2nd yr	21%	64%
3rd yr	35%	63%

On the question of whether the H-Q creates a negative self image 61 per cent said that it did not, while 20 per cent thought it did. The class breakdown is:

	negative self image	no negative self image
1st yr	11%	66%
2nd yr	22%	58%
3rd yr	35%	63%

Again, the results are clear: we do not think H-Q significantly effects employment, causes us to work less than under a 5 or 6 tier system or creates a negative self image.

Now that we have had the referendum and the tabulations are being made we will present the findings to the Academic Policy and Program Committee. I feel confident the Committee will give the results the due consideration they deserve; what we want is clear. Since the faculty will make the final decision we will provide each of the faculty members with copies of the results and if it is appropriate we will ask to present our findings to a faculty meeting.

In ending, I would like to thank Ted Donovan, Sherm Kerner, Michelle Silver and Leslie Wolffe for the enormous amount of time they each spent working on the referendum.

Marathoning Sure Beats Chasing Ambulances

by Jerome Paun

Much like Saturday Night Fever, marathon running is sweeping the country. Across the nation people of all ages are out training for and running the 26.2 mile event. In 1977, the world's most popular marathon, the New York City run through the five boroughs, attracted a record-breaking 5,000 runners. Incredibly, that number more than doubled for the start of this year's race. On October 22, over 11,000 runners assembled on both levels of the Verrazano Narrows Bridge in Staten Island for the start of the annual race. Just as amazing, an estimated 2 million spectators, the largest crowd ever drawn to a single sports event, lined the streets of New York to cheer the runners.

This marathon fever is not peculiar to New York City. On the day before the New York City marathon, some 3,400 plus runners, including two competitors in wheelchairs, gathered at Delaware Park in Buffalo to begin the Fifth Annual Skylon International Marathon. The New York City race may have the honor of being the world's most popular marathon, but the Skylon has the distinction of being the world's only international marathon.

After the starter's gun was fired by Roger Banister, the first person to break the four minute mile, more than 3,400 men, women and children ran and rolled through downtown Buffalo, across the Peace Bridge into Canada and up the beautiful Niagara River Gorge to the finish line in Niagara Falls, Canada.

One might reasonably ask, what is leading a rapidly growing number of otherwise normal people to run the grueling 26.2 mile distance? Why do they spend hours running long distances day after day, week after week, to condition their bodies to bear the punishment of running the distance on marathon day? The answers are many, often quite complex, and vary from person to person.

The 26.2 mile run is named after the town of Marathon, Greece. We run this distance today to commemorate the 490 B.C. run of Pheidippides from the plains of Marathon to the city of Athens. The reason Pheidippides ran this distance so long ago was simple; it was his job as messenger in the Greek army. He ran to bring the Athenians the good news that the Greeks had just defeated the invading Persian army on the plains of Marathon.

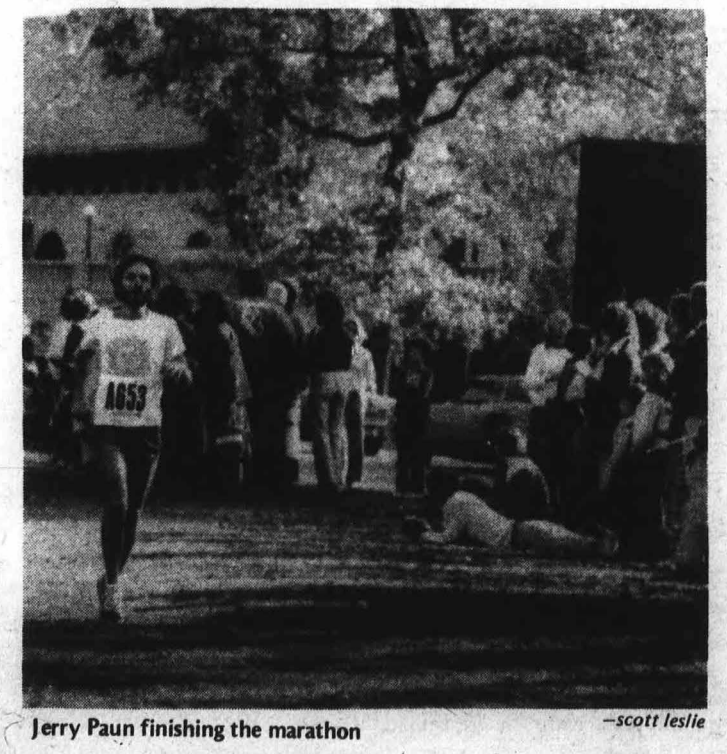
Needless to say, in this age of modern technology, no one runs a marathon to communicate a message, at least not the kind of message Pheidippides bore. The reasons we run marathons today vary. For some like Bill Rogers and Carl Hatfield, winners of the New York City and the Skylon International marathons, finishing in 2:12.12 and 2:18:09 respectively, the reason is to win the race. Since most of us do not have the great fleet-footed gift of speed these men do, we obviously do not run to beat everyone else in the race.

Dean Thomas Headrick ran the 26.2 mile distance to Niagara Falls for the first time ever, in 4:06. A little disappointed he did not break the four hour mark as he had hoped, he plans to have another shot at achieving his goal next year.

The dean attributes not doing as well as he had hoped to somewhat insufficient distance training, which resulted in him "hitting the wall" at about 21 miles. Next year he says he will get in 60 to 70 miles per week for at least a month before the race instead of the 40 to 50 weekly totals he trained at this year.

Headrick said he really enjoyed the race and the beautiful weather on the day of the run, although the 65 degree temperature was a bit too warm for him, as it was for most. The major pleasure of marathoning for the dean is the personal satisfaction of simply accomplishing the feat. He's unconcerned with winning or losing; just to finish is to win.

Marathoning has added a new dimension to Headrick's life, he said with some dismay. He finds when he goes to parties now he is a celebrity for his marathoning, "almost like being an astronaut or something." The dean is troubled by his celebrity status because for him, marathoning is a "very personal thing." He does it for himself and not to impress anyone, he said.



Jerry Paun finishing the marathon —scott leslie

For Jerry Seipp, a clinic supervising attorney and the law school's undisputed star marathoner, the sheer act of running is pleasurable. He had run competitively through high school and college, but only decided to start training for marathons last November.

Jerry ran his first marathon last June in Toledo, Ohio, completing the course in the incredible time of 2:54. The Skylon was Jerry's second marathon and he placed 65th with the remarkable time of 2:44. Having qualified to run in the Boston Marathon by running sub-three hour marathons, Jerry plans to run in that most famous marathon this spring.

The last member of the law school faculty who ran in the Skylon was Professor Robert Reis, who finished the event in 3:08, a respectable time for someone who still manages to occasionally teach a law course in between training sessions. I was unable to interview Professor Reis since he was never in his office when I showed up. No doubt he was out running someplace.

Of the law student body, I know of only three who ran the Skylon; Fran Turner (who I was unable to interview but whom I wish to acknowledge), Lynn Edleman and myself.

Lynn is one of the growing number of female marathoners and probably one of the most devoted long distance runners I know. For Lynn, who enjoys running for health and pleasure, the marathon presented a real challenge. Although she had been plagued by injuries throughout a large part of the training season, Lynn completed her first marathon in under 4:30.

While more women around the world are proving their ability to successfully run in competitive marathons, they are still barred by Olympic rules from running the Olympic marathon event. This discriminatory practice flies in the face of scientific evidence which tends to indicate that for physiological reasons, women are better suited to running extremely long distances than are men.

Finally there is me. I started training to run the marathon last spring, largely because I had become bored with law school and felt I needed a challenge in my life. A number of my friends in New York City were busy training and they convinced me that attempting a marathon would prove a suitable challenge. Indeed it did, almost too much of a challenge.

Proper marathon preparation takes a great deal of time out of the day, when you could be studying but for the training. The month before the marathon I was training between 50 and 60 miles per week. Consequently, my schoolwork suffered somewhat.

While I confess that the mandatory intensive training for the two months prior to the race became a chore and less than fun, I still am looking forward to my second marathon next year. My advice to any law students who are considering marathoning before graduation is to be forewarned you must sacrifice substantial amounts of time for training.

Other runners approaching the finish line —scott leslie

For me, running is a way to stay fit, trim and healthy. It's a good way to relieve stress, something important for law students as well as lawyers. Finally, but equally important, long distance running is something you can get better at as you get older.

Of course, these benefits can be achieved without training for and running in marathons, so I guess the thing that compels me to run marathons is the challenge and the personal satisfaction of completing the event. There is an incredible high associated with running any long distance race, but especially a marathon. Even though your muscles will ache, you just feel so damn good.

No article on marathoning would be complete without a few words concerning the mysterious phenomenon of "hitting the wall." I mentioned Headrick hit the wall at 21 miles. The wall is a physiological and psychological barrier that marathoners often hit somewhere between 18 and 22 miles. There comes a point when the body has metabolized all readily available sources of energy. To satisfy the further fuel requirements necessary to cintinue running beyond this point, the body is forced to begin breaking down muscle protein to burn as fuel for energy. This process is painful and takes its toll.

Like the dean, I too hit the wall, but at around 23 miles. Prior to hitting the wall, I was running a very consistent 8 minute per mile pace. Right around the 23 mile mark, in the span of less than a quarter of a mile, I went from a steady run to a shuffle. The feeling was as if someone much bigger and stronger than me were slowly but surely closing a door in my face and try as I may, I couldn't stop him.

To run beyond the wall requires sufficient body conditioning from long distance training and mental determination to know you can continue. Fortunately, I managed to continue beyond the wall to the finish line.

Anyone who has ever run a marathon can tell you about the tremendous energy and excitement in the air surrounding the race. There is a genuine vibrance, a feeling of life at its fullest. I can't accurately describe the atmosphere in words, so if you want to find out what it's all about, why not try running a marathon? It takes lots of hard training but I'm sure you won't regret it. You'll feel great after it's over and perhaps the best part is marathoning is something you can get better at as you get older. To quote a popular phrase "Try it, you'll like it."

If after reading this article you still fail to understand why anyone would punish themselves by running a marathon, think of it as being akin to attending law school and ask youself why you do that. Indeed, some of my non-law-school friends more readily understand why I run.

By the way, for those who are wondering, I finished in 3:43, placing just over 1200. But as far as I'm concerned I won: I beat the marathon.

BLP Accepting Applicants

Project solicitation has commenced for the Spring, 1979 semester. The BLP will be accepting an additional 20-25 members for the spring term. Membership will be open to second-year students (including those who have not previously submitted a membership application). If you have previously submitted a membership application and are still interested in BLP membership, please leave your name on a list to be posted on the BLP office door, room 724. If you have not previously submitted a membership application, please submit a narrative resume and writing sample to the BLP office by THANKSGIVING break.

Returning members should remember that the organization will be holding its annual director election and semi-annual editor elections during the last week in November or the first week in December. Qualifications: you must have successfully *completed* at least one semester's work as a project member.

The First Annual BLP banquet will be held on Sunday, November 19th at Salvatore's Italian Gardens. Tickets are $8.50 per person and are available from Joanna Gozzi in the BLP office. You are welcome to bring a friend . . . or a spouse . . . or both.

Attack on Chief Justice Bird Reflects Sexist Bias

by Mike Buskus

On Election Day, California voters will decide whether Rose Elizabeth Bird will continue as Chief Justice of the California Supreme Court. California Law requires that Supreme Court Justices be approved by the electorate at the first gubernatorial election following appointment. Chief Justice Bird, a former Professor of Law at Stanford, was appointed to the bench in 1977 by Governor Jerry Brown.

Public concern over Chief Justice Bird's qualifications and record on the Court has been heightened by intense emotional reaction to a well-publicized and somewhat controversial rape case in which she concurred with the majority of the California Supreme Court.

In *People v. Caudillo*, 146 Cal. Rptr. 859 (1978), the California Supreme Court affirmed the convictions of the defendant on charges of sodomy, forcible rape, oral copulation, robbery and burglary, while reversing counts of kidnapping and burglary with infliction of "great bodily injury."

The tragic and horrifying facts demonstrate why observers have been outraged at the Court's treatment of this case. The victim was confronted at knifepoint in an elevator and forced into her apartment. The assailant blindfolded, raped and sodomized her. He also forced her to engage in fellatio. The ordeal clearly terrorized and devastated the victim who vomited and suffered diarrhea during the attack. After this violent episode, lasting several hours, the assailant robbed the victim of $60 and threatened to return and kill her if she reported the incident to the police.

Subsequent to the attack, the victim received medical treatment for shock and for several knife lacerations on her neck. She reported the incident to the police who apprehended a suspect matching the description of her attacker. She testified at trial and identified Daniel Caudillo, the defendant, as her assailant. He was convicted and given sentences to run concurrently on all charges.

On appeal, the California Supreme Court, in an opinion by Justice Jefferson, affirmed in part but reversed the kidnapping and burglary with infliction of "great bodily injury" charges. The Court concluded the defendant had not transported the victim sufficient distance to sustain a kidnapping charge. However, in reversing the conviction under Cal. Penal Code §461, for inflicting "great bodily injury" during the commission of a burglary, the majority opinion stated, "[t]here can be no quarrel with the fact that defendant engaged in a sexual attack upon the victim of such an outrageous, shocking and despicable nature that the victim suffered extreme humiliation and distress due to the flagrant violation of her person and her privacy."

Nevertheless, the majority determined that §461 encompassed only additional *physical* bodily injury beyond that sustained during a rape. While admitting that victims of sexual assaults undoubtedly suffer considerable *psychological* and *emotional* distress, Justice Jefferson reasoned that Penal Code §461 applied only if the victim also incurred substantial *physical* harm.

The majority concluded that while the assault on the victim was totally repugnant, the Legislature intended that the rape, sodomy and oral copulation provisions of the Penal Code define the limits of punishment for such conduct.

Finally, in what is surely the most controversial and questionable language in this opinion, Justice Jefferson added, "the bodily injuries sustained by the victim in the instant case during the course of the combined sexual outrages perpetrated by defendant can at most be considered to be insubstantial in nature – certainly not of the magnitude to be termed significant or substantial. They were injuries that can logically only be described as constituting transistory and short-lived bodily distress."

Chief Justice Bird wrote a separate concurring opinion in which she expressed her sympathy for the victim of the defendant's "outrageous, shocking and despicable" conduct. She added, however, that "personal repugnance toward these crimes cannot be a legitimate basis for rewriting the statute as it was adopted by the Legislature. It is precisely because emotions are so easily called into play in such situations that extra precaution must be taken so that this court follows the Legislative intent and not our own predilections or beliefs."

Two justices dissented, arguing that the victim's injuries could hardly be characterized as "trivial or insignificant."

Following the June 1978 decision in *Caudillo*, opponents of Chief Justice Bird launched a concerted attack on her character and judicial qualifications. Her critics pointed to her lack of judicial experience prior to being appointed to the California Supreme Court. A right-wing group known as the "Law and Order Campaign Committee" filmed TV commercials criticizing Chief Justice Bird for her decision in the *Caudillo* case. The TV campaign urged the electorate to remove her from office on Election Day.

The tenor of the attack on Chief Justice Bird's judicial qualifications reflects a sexist bias against women judges. Noteworthy is the fact that instead of criticizing the majority of the California Supreme Court or Justice Jefferson who wrote the opinion in *Caudillo*, her critics have argued that she was unqualified to be a judge on a high appellate court.

Furthermore, the criticisms of the *Caudillo*, case unfairly single out Chief Justice Bird. the anti-Bird groups forget the fact that she and four other members of the Court upheld the convictions of the defendant for rape, sodomy, oral copulation, robbery and burglary. In addition, there is some validity to the majority's assertion that setting the standards for degree of punishment is ultimately a legislative determination. The legislative history of the statute in question clearly indicates the drafters of the law only intended it to provide punishment for additional physical injuries.

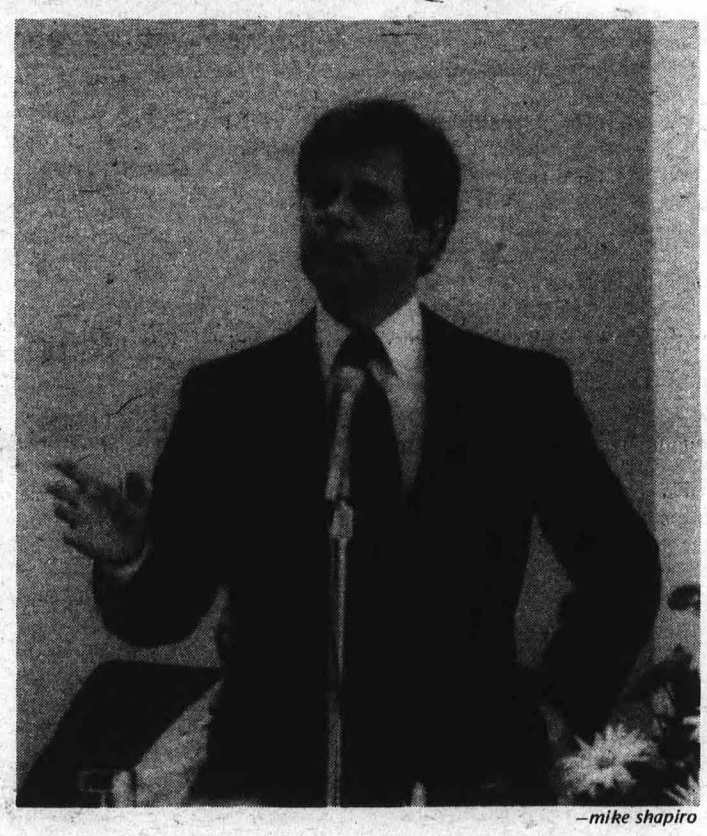
Certainly, the result in *Caudillo* is a sad one as the victim's outrage and injuries (emotional, psychological and physical) will probably never be vindicated. At best, the Court in *Caudillo* was unbelievably insensitive to the victim's very real injuries. Judge Jefferson had absolutely no justification for his statement that the victim's injuries "can at most be considered insubstantial in nature." At worst, the decision in *Caudillo* reinforces the fears of victims of sexual attacks who refuse to report the incidents to the police or refuse to testify in court; they quite understandably believe the courts will not provide substantial justice in this area.

Yet, if the result in *Caudillo* is troubling and disturbing, so too is the right-wing campaign against Chief Justice Bird. Her critics have unduly politicized the judiciary and have unfairly singled out Chief Justice Bird as the target of their criticisms.

The ultimate answer to these troubling issues rests with the California voters. One can only hope, however, that personal repugnance towards the result in *Caudillo* will not result in an unjustifiable removal of Chief Justice Bird.

Pres. Ziegler Views Lawyers As Indispensable In NHL

by J.R. Drexelius



—mike shapiro

President of the NHL John Ziegler addressing Alumni Convocation.

Observing it was good to be back with lawyers, John Ziegler, President of the National Hockey League (NHL), and former counsel of the Detroit Red Wings, addressed the Third Annual Alumni Convocation luncheon, Saturday, November 4.

Sports and the Law was the topic for this year's convocation which in addition to the address by Ziegler, included the presentation of the Edwin F. Jaeckle Distinguished Alumnus Award and a morning panel discussion on Sports Law.

Ziegler's talk traced the role lawyers played in the expansion of the NHL. Noting in 1966 the NHL was a six team league with little need for lawyers, Ziegler spoke of how indispensable lawyers have become in the expanded NHL.

"Hockey has changed from a rich man's hobby to a serious business. Hockey is the business of entertainment, entertainment through competitive sport," the NHL president said.

With this change came the need for good legal counsel, Ziegler said. "We need your discipline. We involve ourselves in contracts, litigation, immigration, and commercial instruments," he noted.

Ziegler explained the role lawyers played in finding new ways to refinance and reorganize ailing franchises which he called "commercial creative work."

Ziegler also discussed the important role lawyers play in collective bargaining. "Collective bargaining has become the key way to make decisions in the sport," he said. The system of negotiating, owner to player, one on one was abused, Ziegler said. This brought about the development of player associations. Player associations, developed by lawyers, have made a tremendous contribution to the game and to the player.

Ziegler noted while counsel for the Red Wings he found a player was best represented by a good lawyer. A good lawyer would treat the player like he would treat any good client. He would tend to all his client's needs, he said. This includes not just contract negotiation, but also any other legal and personal problems with which the player was faced.

Finally, Ziegler noted the monumental importance of the *McCourt* case. Dale McCourt, the star of the Detroit Red Wings is challenging an arbitrator's decision which would send McCourt to the Los Angeles Kings as compensation for the Red Wings signing of free agent Rogie Vachion, former star goalie for the Kings.

The trial court has reversed the arbitrator's decision and the case is presently on appeal to the Sixth circuit. The compensation procedure was in accordance with the collective bargaining agreement between the owner's and the player's association, Ziegler said.

"There is great uncertainty over what we can do by way of collective bargaining until the McCourt case is decided, Ziegler claimed. "The McCourt case will decide how far the collective bargaining agreements can go," the NHL president concluded.

The Edwin F. Jaeckle Distinguished Alumnus Award was presented by Jaeckle to Frank G. Raichle, Jr., a graduate of the class of 1919, and past regent of Canisius College.

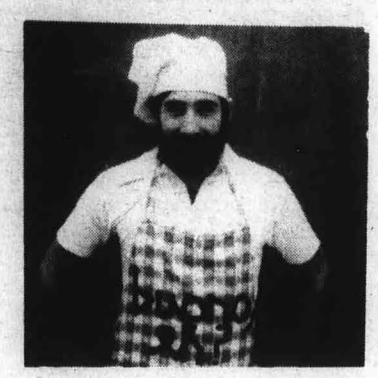
The convocation also honored the class of 1928 which is celebrating its fiftieth anniversary.

The morning panel looked at some of the problems of sports law. Robert O. Swados, vice president and general counsel of the Buffalo Sabres, and Secretary of the NHL moderated the panel, which included former Buffalo Bill Ed Rutkowski, Buffalo lawyer and player agent, William Lerner, Ralph Halpern, attorney for the Buffalo Bills and Pat Gillick, general manager of the Toronto Blue Jays.

The panel discussed the problems encountered in contract negotiations, the role of the lawyer in properly representing a player, and the various ways the different leagues attempt to maintain a competitive level of play.

Culinary Counsel

Simmering Savory Soups Soften Season's Severity



by Paul Suozzi

Editor's note: In December's issue, Culinary Counsel will be devoted to Holiday recipes. Please share your favorites in a spirit of Holiday cheer. Recipes should be dropped in the envelope outside the **Opinion** *office, room 263.*

Nothing warms both body and soul like a bowl of hot soup. It's a sure-fire way to ward off the chilling effects of long, cold Buffalo winters, even making them bearable. Don't get me wrong. I happen to like all the seasons, and Buffalo weather gives one the chance to enjoy winter a little longer than in other places. (Besides, I love soup!)

Following are enough recipes to keep anyone sufficiently warm all winter. The first ones I have enjoyed all my life. The others I'm anxious to try.

Zuppa di Fagioli e Cavolo – Beans and Cabbage Soup/ from Grandma Rosa Suozzi

Small head of cabbage
½ cup celery, chopped
½ cup onion, chopped
1 garlic clove
1 cup tomato sauce
15 oz. can white beans

Cut the cabbage into quarters and remove the hard stem. Wash and drain, then steam in a covered pot with a little salted water until tender.

In another pot, cook the celery, onion and garlic in a little water until tender. Add the tomato sauce and simmer a few minutes. Add the can of beans with the liquid, and the cabbage. Heat and serve.

Broccoli with Rice Soup/ from Marianne Suozzi

1 bunch fresh broccoli, chopped (or two packages frozen chopped broccoli)
4 cups chicken broth
1 cup quick rice (or regular rice cooked separately)

Cook the broccoli in a little salted water until tender. (If you use a covered pot and a low flame you can cook frozen vegetables without adding water. Fresh vegetables should be steamed.)

Add the chicken broth and heat to a boil. Add the quick rice and simmer until the rice is done (or cook the regular rice separately and add). Serve with a sprinkle of parmesan cheese.

Lentil/Split Pea Soup

1 cup carrots, chopped fine
1 cup onion, chopped fine
1 cup celery, chopped fine
1 lb. bag dried lentils/ split peas (about 2 cups)
8 slices bacon or two ham hocks (optional)
salt and pepper to taste

In a pot, no smaller than 6 quarts, fry the bacon or the ham hocks. Remove from the pot. Saute the chopped vegetables in the bacon fat for 5 minutes. (If you are not using meat, start with two tablespoons of oil in the pot and saute the vegetables as before.)

Wash the lentils or split peas. Pick them through to remove any hard ones that look like pebbles. Add the lentils or split peas to the pot with 4 quarts of water and bring to a boil. (Ham hocks should be returned to the pot at this time also.)

When it comes to a rolling boil, turn down the heat and simmer about two hours, adding water if needed, until the lentils or split peas are soft. (The bacon should be crumbled and returned to the soup after simmering. The ham hocks should be taken out, the meat cut off the bone and returned to the soup.) The soup is ready to serve.

I usually freeze half the soup and keep the rest for use during the week. It's a good idea to add elbows or another small macaroni before serving. Cook the macaroni separately while heating the soup. Add the pasta to the soup when ready to serve.

Use only as much pasta and soup as you will need for each meal as the pasta absorbs the liquid from the soup and everything gets mushy.

Minestrone/ from Marianne Suozzi

1 cup dried white navy beans
2 10¼ oz. cans condensed chicken broth
salt
1 small head cabbage (1½ lb.)
4 carrots (½ lb.)
2 medium potatoes (¼ lb.)
1 lb. can Italian-style tomatoes
2 medium onions (½ lb.)
¼ cup olive oil
1 stalk celery
2 zucchini (½ lb.)
1 large fresh tomato
1 clove garlic
¼ teaspoon pepper
¼ cup chopped parsely
1 cup broken-up thin spaghetti

The day before, put the beans in a bowl, cover with cold water, cover and refrigerate overnight. Drain them the next day. (A quicker way to cook the beans is to cover them with water and boil 2-3 minutes, then let stand an hour.)

Take the chicken broth and add enough water to make one quart. Pour into an 8-quart kettle with 2 more quarts of water, two teaspoons salt and the beans.

Bring to a boil, reduce the heat and simmer, covered for 1 hour. Meanwhile, wash the cabbage and quarter. Remove the core with a sharp knife and slice each quarter thinly. Pare the carrots, then slice on the diagonal in ¼ inch slices. Pare the potatoes, slice into ½ inch slices and cut into ½ inch cubes.

Add to the soup with the canned tomatoes. Cover and cook ½ hour longer. Meanwhile, peel the onions and slice thinly. Saute the onion in ¼ cup hot oil in a medium skillet, stirring about 5 minutes, then remove from heat. Slice the celery on the diagonal in ¼ inch slices.

Wash the zucchini and slice into ¼ inch rounds. Peel the tomato, slice into ½ inch slices, then cut into ½ inch cubes. Press 1 clove of garlic. Add the vegetables to the onion with ½ teaspoon salt and the pepper.

Cook slowly, covered and stirring occasionally. Add to the bean mixture with ¼ cup parsely and the spaghetti. Cook slowly, covered and stirring occasionally, about 30 minutes.

Grandma Frieda's Chicken Soup with Matzoh Balls / from Frieda Ehrenstein via Cheryl Block

Beef bones*
Beef soup meat*
2-3 stalks celery, or soup greens (celery is cheaper)
carrots (a few)
1 onion
4 quarters of a chicken
salt to taste
2 quarts water (approximately)

*German Jews also use beef meat and bones to make chicken soup. Grandma says it's yummy that way!

Place the beef bones, soup meat, celery, carrots, onion, salt and water in a large pot and bring to a boil. Turn down and simmer at a low heat for ½ to ¾ hour. Add the chicken. Cook for 1 hour or until the chicken is soft.

Allow to cool, then take out all the ingredients except the soup meat. Refrigerate the soup overnight. The next day, skim off the fat (which you save for the matzoh).

Matzoh Balls

matzoh flour
eggs
salt and pepper
chicken fat

For each whole egg used, add 2 soup spoons of flour and 3 tablespoons of chicken fat. Mix until "liquid thick" – (add water if necessary). Refrigerate for 2 hours. Form matzoh balls with wet hands. Boil one as a "tester." If it doesn't fall apart, cook them all. If it does, add more flour. (Note: the matzoh balls are cooked separately, then added to the soup.)

French Onion Soup/from Risa Boyers Nadel

5 tablespoons butter
5 cups onions, sliced
½ cup soy sauce
7½ cups water
2 garlic cloves, pressed
¼ teaspoon pepper
Gruyere or Swiss cheese, grated
stale French bread (or whatever is handy)

In a pot, saute the onions in the butter until transparent and slightly brown. Add the rest of the ingredients. Bring to a boil, then turn down and simmer until the onions are tender.

Fill individual bowls with soup. Add a few small pieces of bread and top generously with grated cheese. Bake at 450 degrees until cheese is melted.

Greek Lemon Soup/from Lucy Kohane

½ lb. ground lamb
½ cup cooked rice
¼ cup chopped onion
¼ cup chopped parsely
40 oz. chicken broth (5 cups)
¼ cup lemon juice (1 fresh lemon)
1 cup broken up vermicelli
2 eggs
salt and pepper to taste

Place the broth in a large pot and bring to a boil. While the broth is heating mix the lamb, rice, onion and parsely together and form into ¾ inch balls. When the broth is boiling, drop in the meatballs, then simmer for 20-25 minutes. Then drop in the vermicelli and simmer another 20 minutes until the pasta is done.

In a large serving bowl or soup tureen, beat the eggs and lemon juice together. When the soup is ready, slowly pour the soup into the eggs (not the eggs into the soup), stirring constantly. Serve immediately with garlic bread. (serves four)

Cream of Broccoli Soup/ from Jerry Seipp

Serves Six

3 chicken bouillon cubes
6 cups water
1 head broccoli, broken up
½ cup grated onion
1 cup instant dry milk
dash cayenne pepper
1 teaspoon salt
2 tablespoons butter
dashes nutmeg

Bring the water to a boil and dissolve the chicken cubes. Add broccoli and cook until soft (about 45 minutes). Add onion, milk, cayenne pepper, salt and butter. Simmer on low heat about ½ hour. Put mixture into a blender and mix until uniform in texture. Return to saucepan. Serve hot, adding a dash of nutmeg to each bowlful.

Potato-Cauliflower Soup/ from Heidi Denton Lacher

(Serves 4-6)

1 cooked, steamed cauliflower
3 cubed boiled potatoes
1 cup instant dry milk
4 cups stock from cooking cauliflower and potatoes
2 tablespoons butter
½ teaspoon salt
½ lb. sauted mushrooms
½ cup grated onion

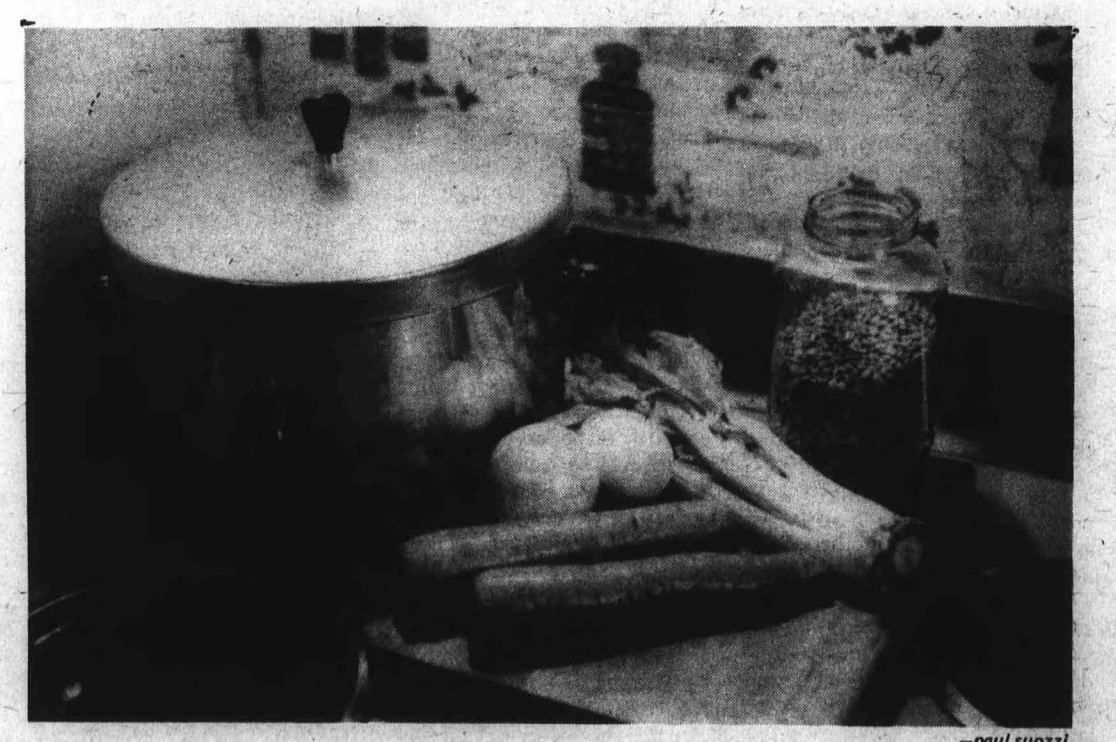
Heat the stock. Then stir in the dry milk, butter and salt. Blend the cauliflower and potatoes with stock until smooth. (Blend the cauliflower and potatoes in a blender before adding to the stock.)

Simmer and add the grated onions and mushrooms. Let simmer for 1 hour.

Mushroom Barley Soup/ from Karen Spencer

½ cup barley
5 cups stock or water
3-4 tablespoons dry sherry
3-4 tablespoons tamari sauce
1 cup chopped onion
1 lb. mushrooms, sliced
3 tablespoons butter
freshly ground pepper

Cook the barley in 1½ cups of stock, about 20 minutes. Add the rest of the stock, sherry and tamari sauce. Saute the onions in the butter until clear, then add the mushrooms. Add to the barley mixture and cook 20 minutes more. Good with parmesan cheese!



–paul suozzi

Short Relief

Keep Those Cards and Letters

by Maria Colavito

Having spent several years working in offices in my prior life (before entering law school), I am more than familiar with bosses' habits of blaming their secretaries for all the mistakes they've made in weekly reports, annual budgets and the like. So, last week when several of my friends were kind enough to point out to me that I had botched up the date of the Yankees/Pirates Series (it should have been 1960), I was very tempted to say, "My secretary must have made a mistake typing up the copy." But I don't have a secretary anymore and besides I made the mistake. Sorry. I could have sworn I started hating Bill Mazerowski in the sixth grade, but I guess it was the fifth.

Apologies over, I am now forced to admit I can no longer write about baseball without taxing everybody's patience. I am well aware that most people need the long winter to recuperate from an eight month baseball season, although I for one could spend the winters watching them play in Puerto Rico or Mexico if I had the chance. I know of a few fellow enthusiasts who share my feeling that baseball is the only true sport, but we are more than out numbered by those who feel that winter is the province of football, hockey or basketball.

Unfortunately, I know nothing about football, hockey or basketball — or practically nothing, I am making valiant efforts to learn about these sports, but it is not an overnight process. Fortunately, I have developed a sure-fire strategy to get me through the winter months. It is what I call the "Sports Illustrated Letters to the Editor" approach to sports writing.

I am not sure how many of you are familiar with the Letters section of **Sports Illustrated**. Well, the readers of **Sports Illustrated** are a very fitting bunch for such a professional and well-written publication. They are as dedicated to perfection in sports reporting as the readers of **Forbes** are to the accumulation of capital assets. Nevertheless, every month, some reader of **SI** (as it is affectionately referred to by those who know) invariably writes in with some obscure statistic which the writer of the article in question forgot to include or had gotten wrong.

The letter writer is always from Waukeegan or Oskosh or Newark, where they apparently have nothing better to do than amass pages and pages of these facts and figures and carefully pour over **SI** catching its staff flat-footed (or with foot in mouth).

An example: "Sir: On reading Ron Rimrite and several readers (these readers also keep track of one another) ruminating over great hitters who were in one way or another deprived of 3,000 hits, I was struck by the fact that no one mentioned Big Ed Delahanty. (Anyone with any sensitivity would justly be shocked over such an error.) At the age of 35, Delahanty had amassed 2,593 hits, along with season of .400, .399, .394 and .408, and a lifetime average of .346. After terrorizing National League pitching for more than a decade with Philadelphia, he jumped over to the infant American League in 1902 and won the batting title with a .376 average at Washington. Then, in the next season, on the night of July 2, 1903, he was put off a train at Fort Erie, Ontario after an altercation with a conductor. He wandered along the tracks onto the international trestle crossing the Niagara River between Fort Erie and Buffalo and, presumably, fell off into the roaring river. His body was later recovered."

This letter was sent from a reader in Salina, Kansas where folks are usually accurate about such things. Now **SI** is in a position to throw this letter into their files on "Ed Delahanty", "Hitters who have hit close to 3,000", "Hitters who won the batting title in 1902", "Baseball players who have fallen off of trestle bridges into roaring rivers" and the like. All of this saves **SI** lots of money in research and gives them more money to send their correspondents to exotic places like Maui to shoot bathing suit issues, or Florida to cover baseball's spring training.

Now, if I were to write what I know about football (the last thing I knew about the New York Giants was that Frank Gifford was playing for them), I am bound to get five or six of you to write me letters telling me about the glories of your particular team or the sport in general. The same could hold true about other winter sports. In this way, I'll be building up a store of information and maybe **Opinion** will decide it can afford to send me to Florida to cover spring training. I suppose it is worth a try. If it doesn't work, I will actually have to write a column on something about which I know nothing (a situation in which some of you will probably feel I have already found myself before).

"Keep Those Cards and Letters Pouring In."

Poetic Opinion Shows Justice Can Rhyme

submitted by Candy Appleton

Judge Evans of Georgia's Court of Appeals, in response to a trial judge's demand that any further reversals of his decisions be written in poetry, rendered, in the interest of justice, the following opinion (which does not include the footnotes with supporting citations):

The D.A. was ready
His case was red-hot.
Defendant was present.
His witness was not.

He prayed one day's delay
From His honor the judge
But his plea was not granted
The Court would not budge.

So the jury was empaneled
All twelve good and true
But without his main witness
What could the twelve do.

The jury went out
To consider his case
And then they returned
The defendant to face.

"What verdict, Mr. Foreman?
The learned judge inquired.
"Guilty, your honor."
On Brown's face – no smile.

"Stand up" said the judge.
Then quickly announced
"Seven years at hard labor"
Thus his sentence pronounced.

"This trial was not fair,"
The defendant then sobbed.
"With my main witness absent
I've simply been robbed."

"I want a new trial –
State has not fairly won."
"New trial denied,"
Said Judge Dunbar Harrison.

"If you still say I'm wrong,"
The able judge did then say
"Why not appeal to Atlanta?
Let those Appeals Judges earn part of their pay."

"I will appeal, sir" –
Which he proceeded to do –
"They can't treat me worse
Than I've been treated by you."

So the case has reached us –
And now we must decide
Was the guilty verdict legal –
Or should we set it aside?

Justice and fairness
Must prevail at all times;
This is ably discussed
In a case without rhyme.

The law of this State
Does guard every right
Of those charged with crime
Fairness always in sight.

To continue civil cases
The judge holds all aces.
But it's a different ball-game
In criminal cases.

Was one day's delay
Too much to expect?
Could the State refuse it
With all due respect?

Did Justice applaud
Or shed bitter tears
When this news from Savannah
First fell on her ears?

We've considered this case
Through the night – through the day.
As Judge Harrison said,
"We must earn our poor pay."

This case was once tried –
But should now be rehearsed
And tried one more time.
This case is reversed!

Judgement reversed

Extensive Looseleafs Available

by Karen Spencer

Since the crash of 1975 when the law library's budget suffered severely and many items were cancelled (including Shepard's!), the library has been subjected to criticism and at times open hostility. It has not been easy having to continuously apologize for the collection's inadequacies.

However, the worst was over last spring and we are well down the road to recovery. Filling in back issues and buying new titles has been a joyous celebration. One of the areas of concentration has been to expand our collection of looseleaf services. Even the freshmen should know by now what looseleafs are and why they are of such importance in legal research.

We thought it would be helpful to publish a comprehensive list of the looseleafs we subscribe to from the major publishers of Bureau of National Affairs (BNA), Commerce Clearing House (CCH) and Prentice-Hall. To locate these materials in the library, check the periodicals list at the circulation desk.

You may find it helpful to clip this list and post it in a prominent place for future reference!!

Prentice-Hall

All States Tax Guide
American Federal Tax Reports, 2nd Series
Consumer and Commercial Credit
Installment Sales Control of Banking
Corporation Report Bulletin
Cumulative Changes, Internal Revenue Code and Tax Regulations Report Bulletin
Federal Tax Course
Federal Tax Handbook
Federal Taxes Citator Report Bulletin
Federal Taxes Report Bulletin
Inheritance & Transfer Taxes
Private Letter Rulings & Bound
Securities Regulation Report Bulletin
State & Local Taxes Report Bulletin
State & Local Taxes Report Bulletin: New York
T.C. Memorandum Decisions
Tax Court Reported & Memorandum Decisions Report Bulletin

Commerce Clearing House

Automobile Law Reports, Insurance Cases
Balance of Payments Reporter
Bankruptcy Law Reporter
jCanadian Sales Tax Reports
Canadian Tax Reports
CCH Canadian Ltd., Canadian master tax guide
CCH Canadian Ltd., Canadian tax reporter. 2d ed.
Clean air and water news
College and university reporter
Common Market Reporter also Euromarket News
Congressional Index also The Week in Congress
Consumer product safety guide
Corporation law guide
Copyright Law Reporter
CCH Canadian Dominion tax cases
Economic Standards
Employment practices decisions
Energy Management
Federal Banking Law Reports
Federal Estate and Gift Tax Reporter
Federal Excise Tax Reports
Federal Securities Law Reports
Federal Tax Articles and Bound
Food, Drug, Cosmetic Law Journal
Food, Drug, Cosmetic Law Reports
Inheritance Estate and Gift Tax Reports, State
Installment Credit Guide — Consumer Credit
Installment Credit Guide — Secured Transactions
The Insurance Law Journal
Labor Arbitration Aards and Bound
Labor Cases
Labor Law Journal
Labor Law Library, Labor Law Reports
Employment Practices Guidebook to Federal Wage Hour Laws
Labor Law Library, Labor Law Reports Guidebook to Labor Relations
Labor Law Reports, Labor Law Summary
Medicare-Medicaid Guide
New York Estates, Wills, Trusts
New York Tax Reports
jNLRB Decisions
Poverty Law Reports
Professional Corporations Handbook Public Bargaining Cases
Public Employee Bargaining, Loose-leaf
Secured Transactions Guide
jStandard Federal Tax Reports
State Tax Review, Tax Court Memorandum Decisions
Tax Court Reports
Tax Treaties
Taxes; The Tax Magazine
Trade Cases
Trade Regulation Reports
US Master Tax Guide
US Supreme Court Bulletin
US Tax Cases
Unemployment Insurance Reports
Urban Affairs Reports
Urban Affairs Reports, Weekly Summary
Utilities Law Reports
Workmen's Compensation Law Reports

Bureau of National Affairs

Antitrust & Trade Regulation Report
Arbitration
Collective Bargaining Negotiations and Contracts
Corporate Practice Series
The Criminal Law Reporter
The Developing Labor Law
Energy Users Report
Environment Reporter
Fair Employment Practice Cases
The Family Law Reporter
Federal Regulation of Bank Holding Companies
Government Employee Relations Report
Housing and Development Reporter
International Evnironment Reporter
jLabor Arbitration Reports Dispute Settlements
Labor Relations Reference Manual
Labor Relations Reporter
Labor Relations Yearbook
Media Law Reporter
Occupational Safety and Health Cases
Occupational Safety and Health Reporter
Patent, Trademark and Copyright Journal
Personnel Policies Forum (Surveys)
Product Safety and Liability Reporter
Securities Regulation & Law Report
Tax Management
Tax Management, Foreign Income
Tax Management — Primary Sources, Series II
The United States Law Week
U S Patents Quarterly
Wage and Hour Cases

Film Views Gay Mothers

"In The Best Interests Of The Children," a documentary film presentation of eight Lesbian mothers, talking of their experiences as Lesbians and mothers, will be presented by the Anti-Sexism Committee of the National Lawyer's Guild this weekend. In the film, the women make statements that show them both to be the same as, and different than other mothers. Their children are shown in interaction with their mothers, and in a rap group with each other, discussing how their mothers are different, how they feel about the court's right to decide where they live, and what they think about their own sexuality.

Also presented are an attorney and a clinical social worker, both of whom have done extensive work with Lesbian mothers. They offer their professional opinions around the issue of a Lesbian's right to maintain custody of her children. Two of the mothers who have been through custody fights talk of those experiences. The others talk of what being a Lesbian means to their children, how they have talked about it, how it has affected their friendships.

Throughout we see these different mothers working and playing with their children. What the film says, ultimately, is that Lesbians are mothers, are good mothers, and that while they do have problems, these problems stem from society's, and the court's attitudes towards them. The solution offered is not to take children away from Lesbians, but to begin changing these attitudes. The film challenges us to think about the prevailing myths and raises questions of particular importance to us as members of the legal community.

In conjuction with the film, the Anti-Sexism Committee and the Distinguished Visitors Forum are presenting Professor John Quigley of Ohio State University Law School. Mr. Quigley has had extensive experience in the area of Gay Rights in general and Lesbian custody in particular.

The film will be shown Friday, November 10th at 7:30 in Room 335 Hayes. A showing at the Law School is planned for Monday, November 13th. Time and place to be announced.

Opinion Interviews An Interviewer

Today's Topic: Interviewing
by Ken Turek

It's come to my attention most law students don't recognize the interview is the most important factor in obtaining a legal job. Forget what you've heard about requirements and realize now the honest, authentic atmosphere of the interview is the time to make or break your legal career. Here is an on-campus interview with an on-campus interviewer from which to cull some hints to turn each interview into your last:

OP: HI, I'm Ken Turek and I'd like to interview you for **Opinion**, the law school's newspaper.

IN: (looking down) Are you on my list?

OP: No, but I'll only take a few minutes.

IN: Is this some kind of ruse to make a good impression? Because if it is ——

OP: Hey look I wouldn't want a job with your firm for anything, I just want an interview.

IN: What's wrong with my firm?

OP: Nothing, I just don't want a job with it.

IN: What's wrong with you?

OP: I'm Polish.

IN: Oh.

OP: Now, what is it an interviewer looks for in a prospective employee? Law Review? Moot Court?

IN: Nah . . .

OP: No?

IN: Nah, an interviewer doesn't want those people. Hey it's a dog-eat-dog world out there kid and those people are a threat to my job. You don't really think people are hired for competence do you? Nah, potential's the key kid, potential.

OP: Really? What kind of potential?

IN: Well it's hard to say . . . well let's take you . . . you said you were Polish . . . hmm tough luck.

IN: No, no, no kid don't get me wrong, we've got our Pole already, Ted Bozinik. Nice guy. What we're looking for is an Irish Jewish woman about 40.

OP: Oh

IN: Is your mother Polish?

OP: Hey look my mother stays out of this.

IN: OK OK, God you people are touchy.

OP: Let's get back on the track. Is your firm hiring any women?

IN: Sure we are. Women are making many inroads in the legal world, and men are finally realizing that they're more than a sex object. Tell me, how are the broads here?

OP: Broads?

IN: You know kid, the broads, the babes, chicks, dolls. How are they?

OP: Uh . . .How are they?

IN: What are you, gay?

OP: I beg your pardon.

IN: Forget it . . . ask me a question.

OP: Um . . . What kind of qualifications do you have to interview people?

IN: Hell I've been doing this for over twelve years . . . and besides I organize the office parties, so I know what to look for.

OP: Hmmm. . . . tell me, do you ever accept sexual favors from interviewees trying to get ahead?

IN: Absolutely not. Any interviewer knows that sexual favors come after the person gets the job. What do you think we are, barbarians?

OP: Sorry.

IN: We do have standards you know.

OP: I guess so. Well you know this has really been a great interview, and your firm really sounds interesting. Mind if I give you a resume?

IN: Sure kid . . . but kid . . . only if you're on Law Review . . . or Moot Court . . . or if you're a 40 year-old Irish Jewish woman.

—mike shapiro

Members of the class of 1928 enjoy themselves at the Alumni convocation held Saturday, November 4, in Law Library.

Top Ten Questions Answered

by Bob Siegel

Answers to the ten most thought-provoking questions at UB law:

1.) Why does the basement floor always look shiny and wet?

Since all of the Amherst campus is built on landfill, there exists a good possibility of water seeping into the basement during a heavy downpour. In the event of such an occurrence, the custodians hope that no one will notice.

2.) Why is the Basement elevator button different from the rest?

While numbers (1-7) are self-explanatory, people thought that a "B" by itself may lead to confusion (bursar, busstop, bathroom, etc.). "BSMT" leaves no doubt.

3.) Is Prosser god?

All depends on your sectional upbringing.

4.) Who is the "reasonable man"?

While the term is obviously subjective, the answer lies in the discretionary power of the court. But you must remember that judges are only lawyers. Now, in all honesty, would a "reasonable man" put up with (3) years of law school. (Something akin to the "blind leading the blind".)

5.) If E.R.A. finally passes, will the N.Y.S. penal Code have to rename "*Mens* Rea"?

This has been a major topic of concern in many Law Review articles. Since there are generally (4) "criminal states" under the heading of "mens rea", I guess it all depends on whether they choose N.Y. state or not. (Feel free to reread this answer.)

6.) What is the best "grading system" to employ?

In my opinion, the (13) tier system would be the best since it would increase our competitive spirit and that's what law school is supposedly all about. The system would be as follows: (A+, A A-, B+, B, B-, C+, C, C-, D+, D, D-, F). As it stands now, the (4) tier system is too straight-forward and rational, and leaves little to imagination. But obviously this (13) tier system by itself is not complicated enough. To begin with, entering students should be given the option of substituting a "P" for a "D" if this is their "psychological" preference. In addition, I feel that professors should have the option of "not grading" students for numerous reasons. These letters (for which the student would receive no credit for the course but no mark on his record) would be as follows:

"A" – absent too often
"L" – late too often
"U" – unbriefed too often
"Z" – caught sleeping too often

But maybe this (18) tier system is still too rational and uncomplicated. Probably our best bet is too regress back to the (25) tier numerical system of 75-100%.

7.) If a hole develops in our athletic "bubble", will it pop or deflate?

The "means" doesn't matter, it's the result that is important. Hopefully either one will force the school to build a decent gymnasium.

8.) Are lawyers truly despised in the real world?

Yes, there are people who think of us as uncaring parasites who live off the ills of society, as double-talking snobs who turn everyday problems into complex legal arguments by inserting legal terminology and Latin phrases where ever possible. To this argument I simply say, "Caveat emptor."

9.) Is there any pay-off in the short-run to shoot for during the first year?

Since the future (career, etc.) is too distant and the immediate day-to-day existance too confusing, I've decided that I need to set my sights on a short-run goal. I'm striving for a wooden locker on the first floor.

10.) Am I a fool for reading the nine prior questions and did I waste my time with this article?

The answer is obviously "yes". But don't be dismayed. You've just received a definite, concise answer to a question without a question in return and this is something that probably won't happen again during your days at UB Law!